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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/744,926	01/30/2001	Claus Frohberg	514413-3865	6519

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EXAMINER

KALLIS, RUSSELL

ART UNIT	PAPER NUMBER
1638	7

DATE MAILED: 07/03/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/744,926	FROHBERG, CLAUS
	<b>Examiner</b>	<b>Art Unit</b>
	Russell Kallis	1638

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on \_\_\_\_.

2a) This action is **FINAL**.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 26-39 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_ is/are allowed.

6) Claim(s) \_\_\_\_ is/are rejected.

7) Claim(s) \_\_\_\_ is/are objected to.

8) Claim(s) 26-39 are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a)  The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.

4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_.

**DETAILED ACTION**

***Election/Restrictions***

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 26, 28, 30-33, and 36-39, drawn to a nucleic acid molecule encoding a potato  $\alpha$ -glucosidase, a vector, a host cell, and a transgenic plant.

Group II, claim(s) 27, 29, 34-35, and 37-39, drawn to a nucleic acid molecule encoding a potato  $\alpha$ -glucosidase, a nucleic acid molecule encoding a branching enzyme, a vector, a host cell, and a transgenic plant.

Group III, claim(s) 27, 29, 34-35, and 37-39, drawn to a nucleic acid molecule encoding a potato  $\alpha$ -glucosidase, a nucleic acid molecule encoding an ADP glucose pyrophosphorylase, a vector, a host cell, and a transgenic plant.

Group IV, claim(s) 27, 29, 34-35, and 37-39, drawn to a nucleic acid molecule encoding a potato  $\alpha$ -glucosidase, a nucleic acid molecule encoding a granule bound starch synthase, a vector, a host cell, and a transgenic plant.

Group V, claim(s) 27, 29, 34-35, and 37-39, drawn to a nucleic acid molecule encoding potato  $\alpha$ -glucosidase, a nucleic acid molecule encoding a soluble starch synthase, a vector, a host cell, and a transgenic plant.

Group VI, claim(s) 27, 29, 34-35, and 37-39, drawn to a nucleic acid molecule encoding a potato  $\alpha$ -glucosidase, a nucleic acid molecule encoding a debranching enzyme, a vector, a host cell, and a transgenic plant.

Group VII, claim(s) 27, 29, 34-35, and 37-39, drawn to a nucleic acid molecule encoding a potato  $\alpha$ -glucosidase, a nucleic acid molecule encoding a disproportioning enzyme, a vector, a host cell, and a transgenic plant.

Group VIII, claim(s) 27, 29, 34-35, and 37-39, drawn to a nucleic acid molecule encoding a potato  $\alpha$ -glucosidase, a nucleic acid molecule encoding a plastid starch phosphorylase, a vector, a host cell, and a transgenic plant.

Group IX, claim(s) 27, 29, 34-35, and 37-39, drawn to a nucleic acid molecule encoding a potato  $\alpha$ -glucosidase, a nucleic acid molecule encoding an R1 enzyme, a vector, a host cell, and a transgenic plant.

Group X, claim(s) 27, 29, 34-35, and 37-39, drawn to a nucleic acid molecule encoding a potato  $\alpha$ -glucosidase, a nucleic acid molecule encoding an amylase, a vector, a host cell, and a transgenic plant.

Group XI, claim(s) 27, 29, 34-35, and 37-39, drawn to a nucleic acid molecule encoding a potato  $\alpha$ -glucosidase, a nucleic acid molecule encoding a glucosidase, a vector, a host cell, and a transgenic plant.

The inventions listed as Groups I-X do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

There is no special technical feature that links the nucleic acid molecule encoding the potato  $\alpha$ -glucosidase of Group I with the nucleic acid molecule encoding the branching enzyme of Group II, the nucleic acid molecule encoding ADP glucose pyrophosphorylase of Group III, the nucleic acid molecule encoding granule bound starch synthase of Group IV, the nucleic acid molecule encoding soluble starch synthase of Group V, the nucleic acid molecule encoding debranching enzyme of Group VI, the nucleic acid molecule encoding disproportioning enzyme of Group VII, the nucleic acid molecule encoding plastid starch phosphorylase of Group VIII, the nucleic acid molecule encoding R1 enzyme of Group IX, the nucleic acid molecule encoding amylase of Group X, or the nucleic acid molecule encoding glucosidase of Group XI. Hence, Groups I, II, III, IV, V, VI, VII, VIII, IX, X, and XI do not relate to a single general inventive concept.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37) CFR 1.143).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Russell Kallis whose telephone number is (703) 305-5417. The examiner can normally be reached on Monday-Friday from 8:30-5:00 PM.

If attempts to reach Examiner by telephone are unsuccessful, the Examiner's supervisor, Amy Nelson, can be reached at (703) 306-3218. The fax phone number for this Group is (703) 308-4242 or (703) 305-3014.

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Any inquiry of a general nature or relating to the status of this application, or if the examiner cannot be reached as indicated above, should be directed to the legal analyst, Kim Davis, whose telephone number is (703) 308-0009.

Russell Kallis Ph.D.  
June 23June 28, 2002



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